

§ 191.172

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articles which consist of either imported duty-paid petroleum derivatives, or petroleum derivatives manufactured or produced in the United States and qualified for drawback under the manufacturing drawback law (19 U.S.C. 1313(a) or (b)).

(b) *Allowance of drawback.* Drawback may be granted under 19 U.S.C. 1313(p):

(1) In cases where there is no manufacture, upon exportation of the imported article, an article of the same kind and quality, or any combination thereof; or

(2) In cases where there is a manufacture or production, upon exportation of the manufactured or produced article, an article of the same kind and quality, or any combination thereof.

§ 191.172 Definitions.

The following are definitions for purposes of this subpart only:

(a) *Qualified article.* “Qualified article” means an article described in headings 2707, 2708, 2710 through 2715, 2901, 2902, or 3901 through 3914 of the Harmonized Tariff Schedule of the United States (HTSUS). In the case of headings 3901 through 3914, the definition is limited as those headings apply to liquids, pastes, powders, granules and flakes.

(b) *Same kind and quality article.* “Same kind and quality article” means an article which is commercially interchangeable with, or which is referred to under the same 8-digit classification of the HTSUS as, the article to which it is compared. (For example, unleaded gasoline and jet fuel (naphtha or kerosene-type), both falling under the same HTSUS classification (2710.00.15) would be considered same kind and quality articles because they fall under the same 8 digit HTSUS classification, even though they are not “commercially interchangeable”.)

(c) *Exported article.* “Exported article” means an article which has been exported and is the qualified article, an article of the same kind and quality as the qualified article, or any combination thereof.

§ 191.173 Imported duty-paid derivatives (no manufacture).

When the basis for drawback under 19 U.S.C. 1313(p) is imported duty-paid pe-

troleum derivatives (that is, not articles manufactured under 19 U.S.C. 1313(a) or (b)), the requirements for drawback are as follows:

(a) *Imported duty-paid merchandise.* The imported duty-paid merchandise designated for drawback must be a “qualified article” as defined in § 191.172(a) of this subpart;

(b) *Exported article.* The exported article on which drawback is claimed must be an “exported article” as defined in § 191.172(c) of this subpart;

(c) *Exporter.* The exporter of the exported article must have either:

(1) Imported the qualified article in at least the quantity of the exported article; or

(2) Purchased or exchanged (directly or indirectly) from an importer an imported qualified article in at least the quantity of the exported article;

(d) *Time of export.* The exported article must be exported within 180 days after the date of entry of the designated imported duty-paid merchandise; and

(e) *Amount of drawback.* The amount of drawback payable may not exceed the amount of drawback which would be attributable to the imported qualified article which serves as the basis for drawback. Drawback due under this paragraph shall not be subject to the deduction of 1 percent.

§ 191.174 Derivatives manufactured under 19 U.S.C. 1313(a) or (b).

When the basis for drawback under 19 U.S.C. 1313(p) is petroleum derivatives which were manufactured or produced in the United States and qualify for drawback under the manufacturing drawback law (19 U.S.C. 1313(a) or (b)), the requirements for drawback are as follows:

(a) *Merchandise.* The merchandise which is the basis for drawback under 19 U.S.C. 1313(p) must:

(1) Have been manufactured or produced as described in 19 U.S.C. 1313(a) or (b) from crude petroleum or a petroleum derivative; and

(2) Be a “qualified article” as defined in § 191.172(a) of this subpart;

(b) *Exported article.* The exported article on which drawback is claimed must be an “exported article” as defined in § 191.172(c) of this subpart;